

DETAILED ACTION

Response to Amendment

The applicant has amended all of the independent claims to include a limitation that specifies that the subscriber receives content based on preferences set by a user of the subscriber. The applicant cites page 10, lines 12-13 and page 14, lines 10-11 for support for this amendment.

The following is page 10, lines 12-13:

Further, the subscriber is configured to receive content 100 based on preferences set by a user of the subscriber.

The following is page 14, lines 10-11:

The subscription device 460 is further configured to allow a user (not shown) to select, control, and play the version based content 410, 410', and 410".

Clearly, the applicant has not disclosed anything novel about preferences and the applicant's disclosed "preferences" are already shown in the cited references. The rejections have been revised to address this limitation.

Response to Arguments

Applicant's arguments filed 9/2/2011 have been fully considered but they are not persuasive.

With respect to the rejection based on 35 USC section 112 1st paragraph, the applicant's amendment does not overcome the rejection because page 13, lines 11-23 do not provide support for increasing a subscriber version identifier in response to the second signal if the first signal is larger than the second signal. Page 13, lines 19-21 detect a difference but they do not mention anything about first and second signals. The applicant needs to specifically explain what part of

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the specification supports the limitation now being claimed in limitation (e) of claim 29 in order to overcome the written description rejection. In addition it is question whether claim 29 invokes 112 6th paragraph with the claimed circuits being means for performing the claimed action. The applicant clearly did not provide written description support for any specific structure of circuits so the examiner is treating the claimed circuits with the broadest possible interpretation.

With respect to the prior art, the applicant's arguments do not make any points that have not been addressed in previous office action. The Examiner has not been able to find anything disclosed by the applicant that is novel in the applicant's vague disclosure. Therefore the Examiner has written rejections proving that the claimed subject matter is not novel. **If the applicant wishes to further prosecution, the applicant needs to explain what parts of the applicant's disclosure advance the state of the art in exchange for patent protection.** The Examiner cannot find any technology disclosed by the applicant. Instead the applicant gives a broad overview on version management for software.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 29-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed

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invention. Claim 29 specifies that a "subscriber version identifier is increased *in response to the second signal if the first signal is larger than the second signal*". The applicant taught the broad concept of increasing a version identifier but not increasing a version identifier in response to any comparison of **signals**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14, 29-31 34-41, and 44-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,009,274 to Fletcher et al. in view of U.S. Patent Number 5,765,992 to Kullick et al. and U.S. Patent Number 5,835,911 to Nakagawa et al.

As to claim 1, Fletcher teaches a version based content distribution system comprising: content comprising a version; a syndicator (**the ASU server**), wherein the syndicator is configured to transmit the version (**col. 10, lines 18-51**); subscriber content comprising a subscriber content version (**col. 10, lines 53-56, the components being run by the agents are the subscriber content**); and a subscriber (**the ASU agent**) configured to store the subscriber content, to compare the version with the subscriber content version (**col. 10, lines 53-56**), and to receive the content from the syndicator if the syndicator version number indicates a newer version (**col. 10, lines 56-67**); wherein the syndicator is remote from the subscriber (**col. 5, lines 6-25**); wherein the subscriber (**the agents**) receives the content based on preference set by a user

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(col. 3, lines 15-17, an IT person is the "user") of the subscriber (col. 5, lines 33-38, the updates are "user-programmable" and thus based on the users preferences); however Fletcher does not explicitly state that a newer version has a higher number nor does Fletcher explicitly teach increasing the subscriber content version number once a download occurs.

Kullick teaches the concept of assigning a new or updated piece of software with a higher version number (col. 4, lines 48-50) and increasing the content version number once a download occurs (col. 5, lines 17-23, the newly downloaded file replaces the old one and therefore the current version is incremented as broadly claimed). Kullick teaches the concept of downloading content if the subscriber version number is found to be less than the version number available for download (col. 4, lines 33-56); Kullick does not explicitly teach that the "higher" version number is incremented. Nakagawa teaches making a software version higher by incrementing it (col. 37, lines 13-18).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Kullick regarding increasing a Software version number with the teachings of Nakagawa regarding incrementing because incrementing is one such way to make a software version "higher" as explicitly stated by Nakagawa.

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Fletcher regarding pulling a software update after receiving a notification of a new version with the teachings of the Kullick-Nakagawa combination regarding the use of escalating numbers for version management because the specific versioning discussed by Kullick would fit the broader disclosure of versioning discussed by Fletcher without any changes to the inventive concept of Fletcher.

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As to claim 2, the ASU server is clearly a server.

As to claim 3-6, see col. 1, lines 42-64 of Fletcher.

As to claim 7-10, see col. 10, lines 18-67 of Fletcher qualifies as the claimed transfer methods. The use of version numbers is obvious as explained in the rejection of claim 1.

As to claim 11, see col. 1, lines 11-64 of Fletcher.

As to claim 12, see col. 11, lines 7-10 of Fletcher.

As to claims 13 and 14, see col. 11, line 64-col. 12, line 18 of Fletcher.

As to claim 29, it is rejected according the rationale used to reject claim 1. The ASU server is the claimed server and the ASU agent is the subscriber. The embodiments of Fletcher and Kullick are implemented via computers and therefore cover the broadly disclosed circuitry claimed by the applicant.

Claims 30 and 34 are rejected for the same reasoning as claim 1.

As to claims 31, 40, and 48, Kullick teaches a version identifier comprising a date and time stamp (col. 4, lines 34-56).

As to claim 35, Fletcher teaches a method of distributing content comprising: defining a version for content stored on a computer readable storage medium within a syndicator (**col. 10, lines 18-67, see the mapping provided in claim 1**); updating the content within the syndicator (**col. 10, lines 18-67**); defining a version for content stored on a computer readable storage medium within a subscriber, wherein the subscriber is remote from the syndicator (**col. 5, lines 6-25**); transmitting the version from the syndicator to the subscriber; performing a synchronization verification wherein the subscriber version is compared to the syndicator version (**col. 10, lines 18-67**); downloading the content stored within the syndicator to the subscriber if

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the subscriber version is found to be older than that of the syndicator version during the synchronization verification (**col. 10, lines 18-67**); however, Fletcher does not teach increasing a syndicator version number after a download, Fletcher does not explicitly state that a newer version has a higher number nor does Fletcher explicitly teach increasing the subscriber content version number once a download occurs.

Kullick teaches the concept of assigning a new or updated piece of software with a higher version number (**col. 4, lines 48-50**) and increasing the content version number once a download occurs (**col. 5, lines 17-23, the newly downloaded file replaces the old one and therefore the current version is incremented as broadly claimed**). Kullick teaches the concept of downloading content if the subscriber version number is found to be less than the version number available for download (**col. 4, lines 33-56**) ; Kullick does not explicitly teach that the "higher" version number is incremented. Nakagawa teaches making a software version higher by incrementing it (col. 37, lines 13-18).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Kullick regarding increasing a Software version number with the teachings of Nakagawa regarding incrementing because incrementing is one such way to make a software version "higher" as explicitly stated by Nakagawa.

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Fletcher regarding pulling a software update after receiving a notification of a new version with the teachings of the Kullick-Nakagawa combination regarding the use of escalating numbers for version management because the

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specific versioning discussed by Kullick would fit the broader disclosure of versioning discussed by Fletcher without any changes to the inventive concept of Fletcher.

Claims 36-39 and 41 are rejected for the same reasoning as claim 1's dependents.

As to claim 44, it is similar to claim 35 with the difference being a reception act instead of a transmitting act. The cited embodiment of Fletcher teaches the reception act.

Claims 45-47 and 49 are rejected for the same reasoning as claim 1's dependents.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,009,274 to Fletcher et al. in view of U.S. Patent Number 5,765,992 to Kullick et al. and U.S. Patent Number 5,835,911 to Nakagawa et al. in further view of U.S. Patent Number 6,990,498 to Fenton et al.

As to claims 15-17, the Fletcher- Kullick-Nakagawa combination teaches claim 1; however the Fletcher- Kullick-Nakagawa combination does not discuss the use of a tree structure.

Fenton teaches the tree structure claimed in claims 15-17 (See Abstract for example).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Fletcher- Kullick-Nakagawa combination regarding the distribution of content by comparing version numbers with the teachings of Fenton regarding a tree structure because a tree structure is an efficient method for providing data to users.

Claims 18, 19, 32, 33, 42, 43, 50, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,009,274 to Fletcher et al. in view of U.S. Patent

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Number 5,765,992 to Kullick et al. and U.S. Patent Number 5,835,911 to Nakagawa et al. in further view of U.S. Patent Number 6,493,748 to Nakayama et al.

The Fletcher- Kullick-Nakagawa combination teaches the subject matter of the independent claims including executable files see col. 1, lines 12-16 of Fletcher; however Fletcher does not teach media files.

Nakayama teaches a version management system for managing media files (See Background).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Fletcher- Kullick-Nakagawa combination regarding the distribution of content by comparing version numbers with the teachings of Nakayama regarding media files because the media files fall within the broadly disclosed executable files disclosed by Fletcher. There is nothing disclosed by the applicant that specifies how "media" would be treated differently than any other content from a technical perspective.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,009,274 to Fletcher et al. in view of U.S. Patent Number 5,765,992 to Kullick et al. and U.S. Patent Number 5,835,911 to Nakagawa et al. in further view of U.S. Patent Number 6,119,165 to Li et al.

As to claim 20, the Fletcher- Kullick-Nakagawa combination makes obvious claim 1; however the Fletcher- Kullick-Nakagawa combination does not explicitly teach a proxy as claimed in claim 20.

Li teaches a proxy as claimed in claim 20.

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Fletcher- Kullick-Nakagawa combination regarding the distribution of content by comparing version numbers with the teachings of Li regarding using a proxy in a separate computer because a proxy allows a client to access the internet using a singular portal (Background of Li).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/
Primary Examiner, Art Unit 2442